HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
DIVISION BENCH

CORAM : **HON'BLE SHRI H.L. DATTU, C.J. &**
HON'BLE SHRI V.K. SHRIVASTAVA, J.

WRIT PETITION NO. 2384 OF 2001

PETITIONER

Chetandeo, S/o Ghasia
aged 57 years
Ex-Loco Driver (S.E. Railway)
R/o Badhiyatala at and
P.O. Dongargarh, Distt.
Rajnandgaon(Chhattisgarh)

Versus

RESPONDENTS

1. Union of India, Through
The Chief General
Manager, S.E. Railway,
Garden Reach,
Calcutta.

2. The Divisional Railway
Manager, S.E. Railway,
Nagpur.

3. The Senior Divisional
Mechanical Engineer,
S.E. Railway, Nagpur.

4. The Mechanical Engineer,
S.E. Railway, Nagpur.

5. The Station Superintendent,
S.E. Railway, Tumsar
Road.

6. The Shed Foreman,
LOCO, S.E. Railway,
Tumsar Road,
Through Shri Deepak
Kumar Patil, Shed
Foreman, S.E. Railway is
presently working at
Gondia (Maharashtra)

7. The Central Administrative
Tribunal
Jabalpur Bench, Jabalpur.

Present : Shri Ratan Pusti, counsel for the petitioner.

ORAL ORDER
(Passed on 9th March, 2007)

The following oral order of the Court was passed by **H.L. Dattu, C.J.**

This petition is filed under Article 226/227 of the Constitution, inter alia, calling in question the legality or otherwise of the orders passed by the Central Administrative Tribunal, Jabalpur Bench, Jabalpur ("the Tribunal" for short) in O.A.No.218/2001 dated 1-5-2001. By the impugned order the Tribunal has rejected the application filed by the employee of S.E. Railway ("Railways" for short).

2) The applicant before the Tribunal was an employee of the Railways. For the alleged acts of misconduct, the disciplinary authority of the Railways had issued a charge memo alongwith the statement of imputations, the list of documents and the list of witnesses. The employee had replied to the charge memo. The disciplinary authority not being satisfied with the defence of the employee, had appointed an enquiry officer to enquire into the allegations made in the charge memo.

3) The enquiry officer after holding a detailed enquiry as required under the rules of the Railways and also in accordance with the principles of natural justice, had come to the conclusion that the employee is guilty of the charges alleged in the charge memo.

4) The enquiry officer thereafter had submitted the enquiry report, the evidence recorded by him and the list of documents to the disciplinary authority.

5) The disciplinary authority after receipt of the aforesaid documents had issued second notice to the applicant to show cause why the report of the enquiry officer should not be accepted by it and thereafter impose appropriate punishment as envisaged under the rules.

6) The disciplinary authority after considering the representation filed by the employee pursuant to the show cause notice issued, had accepted the report of the enquiry officer and had proceeded to impose a major penalty of dismissal from service by its order dated 6-2-1993.

7) For the first time, the employee had presented an original application before the Tribunal in the year 2001. Along with the application, he had also filed an application for condonation of delay, if any, in filing the application.

8) The Tribunal, by its impugned order has rejected the application on the ground of delay and laches on the part of the applicant in approaching the Tribunal. Further, the Tribunal has adverted to the merits of the case and has come to the conclusion that the applicant had failed to discharge the burden of proving the so called procedural irregularities said to have been committed by the enquiry officer while conducting the enquiry proceedings. The Tribunal being the final authority has found that there is no irregularity. As such, we do not intend to interfere with the opinion of the Tribunal on the question of facts.

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9) In so far as the delay part is concerned, the Tribunal in its lengthy order has observed that the applicant had filed an application for condonation of delay in preferring the application without assigning satisfactory explanation. Therefore, the Tribunal has come to the conclusion that the delay in filing the application is not justifiable. At the time of hearing of this petition, learned counsel for the petitioner would submit that immediately after the orders passed by the disciplinary authority, the petitioner was making repeated representations before the superior forum and it is because of that the applicant could not approach the Tribunal within a reasonable time. Time and again, the Apex Court observed that mere filing of repeated representations would not cure the delay before the Tribunals. In view of the above, the submission made by learned counsel for the petitioner cannot be accepted by us. Learned counsel also relies upon the observations made by the Apex Court in the case of **G.P. Doval and others vs. Chief Secretary, Govt. of U.P. and others**, reported in **AIR 1984 SC 1527**. That was a case rendered by the Apex Court while considering the plea of the petitioners with regard to the seniority. The concept explained by the Apex Court in the aforesaid decision, in our opinion, cannot be applied to the facts and circumstances of the present case. The employee, who was suffering the order of dismissal from service and wants redressal of his grievance, should approach the Tribunal within a reasonable time.

10) In that view of the matter, we do not see any error in the order passed by the Tribunal in rejecting the application of the petitioner on the ground of delay and laches.

11) In view of the above, we do not want to interfere with the order passed by the Tribunal. Accordingly, the petition requires to be rejected and is accordingly rejected without notice to the respondents. Ordered accordingly.

Sd//-
V.K.Shrivastava
Judge

Sd/-
Chief Justice